



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

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**Governor**

Janet Napolitano

**Commissioners**

Chairman, Susan E. Chilton, Arivaca

W. Hays Gilstrap, Phoenix

Joe Melton, Yuma

Michael M. Golightly, Flagstaff

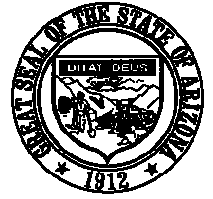
William H. McLean, Gold Canyon

**Director**

Duane L. Shroufe

**Deputy Director**

Steve K. Ferrell



August 27, 2004

A public meeting of the Arizona Game and Fish Commission will be held on September 17 and 18, 2004, and as authorized by A.R.S. § 17-201(D), the Commission will discuss and may vote to take action on the following matters:

**Friday, September 17, 2004, Arizona Game and Fish Commission at the Manor House Conference Center, 415 East Highway 70, Safford, Arizona 85546.**

**Meeting begins at 7:00 a.m.**

**1. Executive Session**

- a. Sale or Lease of Real Property.** The Commission may vote to go into Executive Session to discuss, consult with, and instruct its attorneys and Department staff concerning negotiations for the sale or lease of real property and associated water rights pursuant to A.R.S. § 38-431.03 (A)(7).
- b. Legal Counsel.** The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A) (3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and to instruct legal counsel regarding the Commission's position on *Montoya v. Manning*, CIV98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game & Fish Commission & Shroufe*, CIV2000-020754; *Ameduri and Yee et. al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02 2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM, IBLA appeal no. 2002-412*, *Center for Biological Diversity v. Norton*, 03 CV-01558 RCL, and *Audubon Society of Portland v. USFWS*, CV04-670-KI.
- c. Legal Counsel Regarding the Silverbell Bighorn Sheep Herd.** The Commission may vote to meet in Executive Session in accordance with A.R.S. sections 38-431.03(A)(3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and instruct legal counsel regarding the Commission's position on possible settlement or litigation over the damages associated with the epizootic episode in the Silverbell Bighorn Sheep Herd.

- d. **Consideration of the Requirements of R12-4-114(D) as they Apply to Future Big Game Drawings for Hunt Permit-Tags in Light of the July 13, 2004, U.S. District Court Order in the Matter of Montoya v. Manning, CIV98-0239 PHX RCB.** The Commission may vote to meet in executive session for the purpose of obtaining legal advice from its attorneys on this matter pursuant to A.R.S. section 38-431.03(A)(3) and (4).
- e. **Personnel Matters.** The Commission may vote to go into Executive Session to discuss personnel matters, including the Director's goals and objectives pursuant to A.R.S. § 38-431.01 (A) (1). The Commission may decide this matter in the public meeting or defer a decision to a later date.

**Public Session begins immediately following the Executive Session, but no later than 9:00 a.m.**

#### **Awards and Commissioning of Officers.**

- 2. **Litigation Report.** The Department's legal counsel may report on the status of the following litigation matters: *Montoya v. Manning*, CIV98-0239 PHX RCB; *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game & Fish Commission & Shroufe*, CIV2000-020754; *Ameduri and Yee et. al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02 2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM*, IBLA appeal no. 2002-412, and issues associated with potential litigation over the status of black-tailed prairie dogs and mountain plovers, and Mexican garter snake. A written report will also be available. The Commission may vote to take action on any case.
- 3. **Presenter: Bob Broscheid, Habitat Branch Chief. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto.** The Commission will be briefed on the latest developments relating to the implementation of land and resource management plans and projects on state and federal lands in Arizona and other matters related hereto. The update addresses decisions or activities since the August 13, 2004 Commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.
- 4. **Presenter: Bob Broscheid, Habitat Branch Chief. Request for Commission Approval of a Cooperative Agreement Between the Bureau of Land Management and the Arizona Game and Fish Commission.** The Commission will be asked to vote to approve a new Cooperative Agreement between the Bureau of Land Management and the Commission to serve as an umbrella agreement for future task orders and collection agreements between the two agencies.
- 5. **Presenter: Bob Broscheid, Habitat Branch Chief. Request for the Commission to Approve the Acquisition by Donation of the Mason Property Located near the Gila River in Yuma County, Arizona.** The Commission will be asked to vote to approve the acquisition by donation of the Mason Property.

6. **Presenter: Bob Broscheid, Habitat Branch Chief. Request for the Commission to Approve the Agreement with the Arizona Department of Public Safety for the Purpose of Operating and Maintaining a Portion of the Commission's Three Points Shooting Range, Pima County, Arizona.** The Commission will be asked to vote to approve the Agreement with the Arizona Department of Public Safety for the purpose of operation and maintenance of a portion of the Commission's Three Points Shooting Range near Tucson.
7. **Presenter: Bob Broscheid, Habitat Branch Chief. Request for Commission Approval of the Acquisition of Coal Mine Springs and Coal Mine Canyon, in Santa Cruz County, Arizona.** The Commission will be asked to vote to approve the acquisition of Coal Mine Springs and Coal Mine Canyon in Santa Cruz County for recovery of the Endangered Gila Topminnow and to prepare and execute a Purchase Agreement with the Trust for Public Land.
8. **Presenter: Don Winslow, Education Branch Chief. Statewide Shooting Range Briefing.** The Commission will be given an update of Department activities related to shooting range support and development statewide. The update covers activities that have occurred since the August 2004 commission meeting. The Commission may vote to take action on, or provide the Department direction on, items covered in the update.
9. **Presenter: Marty Macurak, Assistant Director, Information and Education Division. Memorandum of Understanding with the Arizona State Rifle and Pistol Association.** The Department will provide the Commission with a memorandum of understanding between the Department and Arizona State Rifle Pistol Association for the operation of the Ben Avery Range Fund. The Commission may vote to take action on the agreement.
10. **Presenter: Terry B. Johnson, Nongame Branch Chief. Conservation of the Cactus Ferruginous Pygmy-Owl.** The Department will brief the Commission on the biological and legal status of the cactus ferruginous pygmy-owl, and the ongoing conservation effort to recover, downlist, and/or delist this species. The Commission may vote to give the Department direction on this item.
11. **Presenter: Mark E. Naugle, Rules & Risk Manager. Request to Approve a Notice of Proposed Rulemaking for Article 9, Arizona Wildlife Conservation Fund Grants.** The Commission will be asked to vote to approve a Notice of Proposed Rulemaking to establish Article 9, Arizona Wildlife Conservation Fund Grants, and to promulgate new rules to prescribe procedures for the Arizona Wildlife Conservation Fund Grants program.
12. **Call to the Public.** Those persons wishing to speak should complete a speaker's card and present it to the Host. Unless prior approval has been granted by the Chairman, comments will be limited to no more than three minutes. No discussion or action will be taken by the Commission. Any items requiring further discussion or action will be included on a future Commission meeting agenda.

**13. Presenter: Leonard L. Ordway, Law Enforcement Branch Chief. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife at Time Certain 1:30 p.m.** The Commission will consider and take action on the Department's recommendations for license revocations and/or civil assessments for the individuals listed below.

<u><b>Name</b></u>	<u><b>Conviction</b></u>
Teele, Ryan C.	Count A: Take wildlife from a closed area.
Grove, Lauren L.	Count A: Take wildlife from a closed area.
Frost, Wesley H.	Count B: Take wildlife while revoked.
Hinshaw, Gary S.	Count A: Sell unlawfully taken wildlife (Gila monster).
Mobley, Paul A.	Northwest Phoenix Justice Court Count C: Obtain 2003 deer hunt permit-tag by fraud.  Peoria Justice Court Count A: Obtain 2002 hunt license by fraud.
Peralta, Jesus A.	Northwest Phoenix Justice Court Count A: Obtain 2002 hunt license by fraud. Count E: Obtain 2002 elk permit-tag by fraud.  Northwest Phoenix Justice Court Count B: Obtain 2003 deer permit-tag by fraud.
Alvarado, Steve	Count A: Litter while hunting.
McCowan, Charles R.	Count A: Litter while taking wildlife.
Soulliere, Kirk H.	Count A: Take big game without a valid license (elk).
Soulliere, Jason K.	Count A: Take big game without a valid license (elk).

**14. Presenter: Steve K. Ferrell, Deputy Director. Online Internet Application Process.**

- a. **Presenter: Steve K. Ferrell, Deputy Director. A Briefing on Options to Modify or Eliminate the Online Internet Application Process.** The Department will provide the Commission with a briefing on options to modify or eliminate the online Internet application process, including options to require the upfront payment of hunt permit-tag fees. The Commission may vote to provide the Department with direction on this item.

- b. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to Amend the Process for Online Internet Applications for the Big Game Draw.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to amend the process for online Internet applications for the big game draw. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.

**15. Presenter: Steve K. Ferrell, Deputy Director. Options for Maintaining Resident Hunting Opportunity in Light of the July 13, 2004, U.S. District Court Order in the Matter of *Montoya v. Manning*, CIV98-0239 PHX RCB.** The Commission will be considering a series of broad alternatives to maintain resident hunting opportunity in light of the July 13, 2004, U.S. District Court Order in the matter of *Montoya v. Manning*, CIV98-0239 PHX RCB. The Commission may vote to take action on, or to provide the Department with direction on this item. The Commission may vote to go into executive session for the purpose of obtaining legal advice from its attorneys on this matter pursuant to A.R.S. section 38-431.03(A)(3) and (4).

- a. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to 1) Create a Loyalty Bonus Point; and 2) Increase the Bonus Point Pass Percentage of the Big Game Draw from 10% to 20%.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to 1) Create a Loyalty Bonus Point; and 2) Increase the Bonus Point Pass Percentage of the Big Game Draw from 10% to 20%. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.
- b. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to Require All Big Game Permit Applicants to Purchase a Hunting License to Apply for the Draw.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to require all big game permit applicants to purchase a hunting license to apply for the draw. The Commission will be asked to vote to consider the Notice of Proposed Rulemaking and to provide any direction to the Department regarding rulemaking subject to the findings of an opinion by the Arizona Attorney General in this matter. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.
- c. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to Create a Conservation Bonus Point.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to create a Conservation Bonus Point. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.
- d. **Presenter: Steve K. Ferrell, Deputy Director. Consideration of Legislation for the Creation of an Application/Administrative Fee for the Conservation Bonus Point Program.** The Commission will consider and may vote to take action on or to provide the Department with direction on potential legislation for the creation of an application/administrative fee for the Conservation Bonus Point Program.

- e. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to Create a Set-Aside Percentage of the Previously Capped Big Game Permits for Nonresidents.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to create a set-aside percentage of the previously capped big game permits (not to exceed 10%) based on draw success rates for nonresidents under the previous 10% Cap, for which nonresidents would be eligible under a separate (nonresident only) draw. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.
  - f. **Presenter: Steve K. Ferrell, Deputy Director. Consideration of Legislation to Amend the Statutory Provisions that Allow for the Sale of Parts and to Create "Commercial" and "Non-commercial" Big Game Tags.** The Commission will consider and may vote to take action on or to provide the Department with direction on potential legislation to modify the statutory provisions that allow for the sale of parts and to create "commercial" and "non-commercial" big game tags. The Commission will also be asked to vote consider possible exemptions to any potential statutory amendments.
  - g. **Presenter: Steve K. Ferrell, Deputy Director. Notice of Proposed Rulemaking to Create "Commercial" and "Non-commercial" Big Game Tags.** The Commission will consider and may vote to take action on or to provide the Department with direction on a Notice of Proposed Rulemaking to create "commercial" and "non-commercial" big game tags. Under the proposed rulemaking, ninety percent of the tags from the previously capped hunts would be "non-commercial," and would not allow for the sale of parts. These tags would be available to residents only. Ten percent of the tags would be "commercial" tags that allow for the sale of parts. These "commercial" tags would be available equally to both residents and non-residents. The Commission may vote to direct the Department to modify or amend any portion of the Notice of Proposed Rulemaking.
- 16. Presenter: Steve K. Ferrell, Deputy Director. Options for Increasing License Fees and Application Fees.** The Department will provide the Commission with a briefing on options for increasing license fees and application fees. The Commission may vote to provide the Department with direction on this item.
- 17. Presenter: Anthony Guiles, Legislative Liaison. State and Federal Legislation.** The Commission will be briefed on the status of State and Federal legislation. The Commission may vote to take a position or provide direction to the Department for coordination, action, or proposed changes to legislation or other elective issues related to Department responsibilities.
- 18. Presenter: Steve K. Ferrell, Deputy Director. Request from Mr. Don Martin Regarding His 2004 Hunt Permit-Tag for Hunt Unit 12B West.** The Department will present a request from Mr. Don Martin asking that the Department allow him to relinquish his 2004 hunt permit-tag for hunt unit 12B West and for the Department to reinstate his bonus points. The Commission may vote to take action on or to provide the Department with direction on this item.

- 19. Presenter: Steve K. Ferrell, Deputy Director. Consideration of the Requirements of R12-4-114(D) as they Apply to Future Big Game Drawings for Hunt Permit-Tags in Light of the July 13, 2004, U.S. District Court Order in the Matter of Montoya v. Manning, CIV98-0239 PHX RCB.** The Commission will consider whether or not the Requirements of R12-4-114(D) should apply to future big game drawings for hunt permit-tags in light of the July 13, 2004, U.S. District Court Order in the Matter of Montoya v. Manning, CIV98-0239 PHX RCB. Under R12-4-114(D), no more than 10% of the total available bighorn sheep or buffalo hunt permit-tags in any calendar year are issued to nonresidents. The Commission may vote to take action on or to provide the Department with direction on this item. The Commission may vote to go into executive session for the purpose of obtaining legal advice from its attorneys on this matter pursuant to A.R.S. section 38-431.03(A)(3) and (4).
- 20. Call to the Public.** Those persons wishing to speak should complete a speaker's card and present it to the Host. Unless prior approval has been granted by the Chairman, comments will be limited to no more than three minutes. No discussion or action will be taken by the Commission. Any items requiring further discussion or action will be included on a future Commission meeting agenda.
- 21. Presenter: Dana Yost, Executive Staff Assistant. 2004 Annual Commission Awards Selection.** The Department will provide an overview of the 2004 Commission award nominees and will ask the Commission to vote to select the 2004 Commission award recipients. The Department will also ask the Commission to consider (effective with the 2005 awards cycle) eliminating the Media of the Year Award category and in its place instituting an Educator of the Year Award. The Commission may vote to select award recipients and to provide the Department with direction on this item.
- 22. Director's and Chairman's Reports.** The Director and the Chairman will report on recent Department and Commission activities. This item will be informational only and no action will be taken at this meeting. If further discussion is necessary, those items requiring discussion may be placed on a future Commission meeting agenda.
- 23. Commissioners' Reports.** The Commissioners will report on their recent activities related to Game and Fish Commission duties and responsibilities. This item will be informational only and no action will be taken at this meeting. If further discussion is necessary, those items requiring discussion may be placed on a future Commission meeting agenda.
- 24. Approval of Minutes** for July 16, 2004; July 19, 2004; August 4, 2004; August 9, 2004; and August 13 and 14, 2004; and **Signing of Minutes** for June 9, 2004, and June 18-19, 2004.

**25. Future Agenda Items.**

**Saturday, September 18, 2004.** The Commission may attend a field trip to Mt. Graham. The tour will depart from the parking lot of the Manor House Conference Center, 415 East Highway 70, Safford, Arizona, at 7:00 AM. No official action will be taken by the Commission.

The agenda may be revised and additional items may be added prior to the meeting as authorized by A.R.S. §38-431.02. In that event, an addendum to the agenda will be noticed and posted prior to the meeting at Department offices. Commission agenda items not noticed for a specific time may be taken out of order.

Background materials provided to Commission members concerning public agenda items are available for public inspection at the main office of the Arizona Game and Fish Department at 2222 West Greenway Road, Phoenix, at Department regional offices in Pinetop, Flagstaff, Kingman, Yuma, Tucson, Mesa and at the meetings.

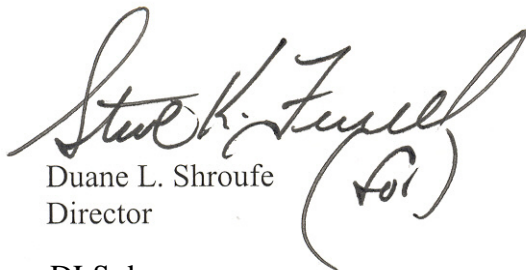
During the public meeting, the Commission may afford any person, his duly authorized representative, or both, the opportunity to present statements relating to agenda items, with or without the opportunity to present them orally.

The Commission may go into Executive Session for the purpose of obtaining legal advice from the Commission Attorneys on any of the above agenda items pursuant to A.R.S. § 38-431.03 (A) (3) & (4).

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway Road, Phoenix, Arizona 85023, 602-942-3000. Requests should be made as early as possible to allow time to arrange the accommodation.

The Arizona Game and Fish Department is responsible for managing Arizona's fish and wildlife resource as an enduring public trust. In addition, the Department is charged with promoting safe and responsible use of watercraft and off-highway vehicles. Funding is provided from the sale of licenses and permits; watercraft registration fees; federal excise taxes on firearms, fishing equipment, boats, and other sporting goods; State lottery revenues; donations on State income tax forms; and various contracts and grants. Department policy is set by the Arizona Game and Fish Commission, whose five members are appointed by the Governor.

*"Managing Today for Wildlife Tomorrow"*

A handwritten signature in black ink, appearing to read "Duane L. Shroufe", with a large, stylized flourish underneath. To the right of the signature, the letters "for" are handwritten in a smaller, cursive script.

Duane L. Shroufe  
Director

DLS:dy